IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.5545 OF 2007.
IN
FIRST APPEAL NO.1894 OF 2006.

Smt Kusum Baban Godhade ...Applicant

Versus

The National Insurance Co Ltd & Ors. ...Respondents

Shri M.A. Utagikar for the Applicant.

Shri H.M.Rane for the Respondent No.1.

CORAM : ABHAY S.OKA, J.
DATED : 22nd November, 2007.

P.C.:

1. Heard advocate for the Applicant and advocate for the first Respondent. The challenge in the First Appeal by the first Respondent is to the finding recorded by the Tribunal that the first Respondent is liable to satisfy the award which is made against the insured. The case of first Respondent was that there is a breach of policy conditions committed by the insured. The said case has not been accepted.

2. Even if the first Respondent succeeds in Appeal, compensation amount can be always recovered by the first Respondent from the insured. Considering the facts and circumstances of the case, the Applicant who is a widow of the deceased is required to be permitted to withdraw

some amount. Hence, Application is disposed of by passing following order:

(i) The Tribunal will permit the Applicant to withdraw a sum of Rs.50,000/- without security and a further sum of Rs.50,000/- on furnishing adequate security.

(ii) The sum of Rs.25,000/- deposited by the first Respondent in this Court shall be transferred to the Tribunal.

(iii) The balance amount lying with the Tribunal as well as the said amount of Rs.25,000/- shall be invested by the Tribunal in fixed deposit in any nationalised bank and the fixed deposit shall be renewed from time to time till the final disposal of the Appeal.

(iv) Civil Application is disposed of accordingly.

JUDGE